

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 14-cr-197-pp

v.

YANDI PONCE DE LEON,

Defendant.

**ORDER DENYING DEFENDANT’S MOTION
TO RETURN PROPERTY (DKT. NO. 336)**

On September 4, 2018, the court received from the defendant a motion asking the court to order that the Drug Enforcement Administration return over \$4,800 seized from him on October 7, 2014. Dkt. No. 336. The defendant relies on Rule 41(g) of the Federal Rules of Criminal Procedure, as well as several court decisions. He argues that the money “was never lawfully forfeited civilly or criminally within his Indictment or as part of the written Plea Agreement.” Id. at 3. The court will deny the motion.

The grand jury returned the superseding indictment against the defendant and others on December 2, 2014. Dkt. No. 30. Page 12 of the indictment contained a forfeiture notice, that listed several items of property subject to forfeiture. Subsection (d) of that forfeiture notice listed “Approximately \$4,830.00 in United States currency seized from Yandi Ponce de Leon on October 8, 2014.” Id. at 12.

On October 7, 2015, the defendant signed a plea agreement. Dkt. No. 188 (signature page at page 16). Paragraph 32 of that plea agreement stated:

Forfeiture

32. The defendant agrees that all properties listed in the indictment constitute the proceeds of the offense to which he is pleading guilty, or were used to facilitate such offense. The defendant agrees to the forfeiture of these properties and to the immediate entry of a preliminary order of forfeiture. The defendant agrees that he has an interest in each of the listed properties. The parties acknowledge and understand that the government reserves the right to proceed against assets not identified in this agreement.

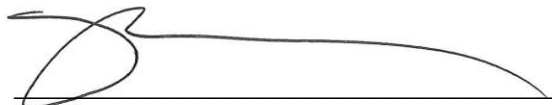
Dkt. No. 188 at ¶32.

The defendant is incorrect, then, in his assertion that the money was not listed in the forfeiture provision of the indictment, and in his assertion that he did not agree to forfeiture in the plea agreement.

The court **DENIES** the defendant's motion to return property. Dkt. No. 336.

Dated in Milwaukee, Wisconsin this 6th day of September, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge